IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Bail Appl..No. 7300 of 2007(S)

CRIME NO. 381/07 OF MATTANNUR POLICE STATION

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PETITIONER/ACCUSED NO.2

SUJITHKUMAR K.V.,
S/O LATE V.K.PRABHAKARAN NAMBIAR,
AGED 33 YEARS, R/AT 'SEENA NIVAS',
P.O.MATTANNUR,(SECRETARY, IRITTY BLOCK
AGRICULTURAL IMPROVEMENT CO-OPERATIVE SOCIETY,
CHALODE, KANNUR DISTRICT).

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: COMPLAINANT

STATE - S.H.O. MATTANNUR POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7300 of 2007

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Dated this the 29th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused in a crime registered for the offence punishable under Section 420 I.P.C. The petitioner is the Secretary of a bank. The first accused is a loanee, who had availed a loan from the bank by pledging gold ornaments. The gold ornaments pledged by the first accused, after a long period of time, were found to be not genuine. An amount of Rs.6.16 Lakhs had been siphoned out of the funds of the bank by the first accused. It is the case of the bank now that the petitioner, in collusion with the first accused, had facilitated such siphoning out of the funds of the bank on the strength of non-genuine/fake gold ornaments.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Assuming that an error has been committed by the petitioner in accepting the security, ready

inference of culpability is unjustified. He further submits that the entire liability has already been paid and discharged by the first accused.

3. The learned Prosecutor refutes the allegations, but accepts that the case diary shows that the entire liability has now been discharged by the first accused. The learned Prosecutor submits that the petitioner, who is in charge of accepting the security, does have the benefit/advantage of scientific instruments to test the purity of the gold ornaments pledged. It is unlikely that the petitioner would have committed any bonafide error in the matter. However, considering the fact that the entire liability has been discharged by the first accused, the learned Prosecutor does not oppose the application.

4. For that very reason, I am satisfied that a lenient view can be taken and the petitioner can be granted anticipatory bail.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 6.12.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 7.12.2007 and 8.12.2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 6.12.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 6.12.2007 as directed in clause (1) above, he shall be released on bail

on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 6.12.2007.

(R. BASANT)
Judge

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